I. *A Copy of an Ancient* Chirograph, *or* Conveyance *of Part of a* Sepulchre, *cut in Marble, lately brought from* Rome, *and now in the Poſſeſſion of Sir* Hans Sloane, *Bar^t. R. S. Pr. with ſome Obſervations upon it by* Roger Gale, *Eſq; V. P. R. & Tr. R. S.*

1 Dijs Manibus
2 Marci Herennij
3 Proti, vixit annos viginti duos
4 Menſes duos, Dies quinque, fecerunt Parentes
5 Marcus Herennius Agricola et
6 Herennia Lacena Filio.
7 Chirographum. Ollaria numero quatuor
8 Cineraria quinquaginta tria intrantibus par-
9 te læva quæ ſunt in monumento
10 Titi Flavij Artemidori, quod eſt Viâ
11 Salariâ in agro Voluſi Baſilides
12 Ientibus ab Urbe parte ſiniſtra, Do-
13 nationis cauſa Mancipio accepit
14 Marcus Herennius Agricola de Tito Flavio
15 Artemidoro Seſtertio nummo Uno, Libripende Marco
16 Herennio Juſto, Anteſtatus eſt Tiberium
17 Julium Erotem: Inque vacuam
18 Poſſeſſionem earum ollarum
19 Et Cinerariorum Titus Flavius Arte-
20 midorus Herennio Agricolæ ire
21 Aut mittere, oſſaque inferre per-
22 miſit, ſacrumque quotiens face-
23 re vellit Herennius Agricola
24 Heredeſve ejus permiſit, Claviſve
25 Ejus monumenti poteſtatem factu-
26 rum ſe dixit, dolumque malum
27 Huic rei abeſſe afuturumque :
28 Se hæc rectè Dari, fieri præſtari-
29 que ſtipulatus eſt Marcus Herennius
30 Agricola, ſpepondit Titus Flavius
31 Artemidorus. Actum 18° Kalendas Januarij
32 Caio Calpurnio Flacco, Lucio Trebio
33 Germano COS.

THIS Marble, lately arrived from *Rome*, and now repoſited in the noble Muſæum of Sir *Hans Sloane*, is a moſt valuable Piece of Antiquity, as exhibiting a compleat *Formula* of a *Chirograph*, or Conveyance of one Part of a Burying-Place from one Family to another, but neither of them of any Note, ſeeming by their *Agnomina* to have been only *Liberti*, or deſcended from ſuch. *Agricola* indeed is a *Roman* Name, but thoſe of his Wife *Lacena*, and his Son *Protus*, are both *Greek*.

By this *Chirograph* (Line 7th, 8th, *&c.*) *Herennius Agricola* obtains from *Titus Flavius Artemidorus*, a Right to four *Ollaria*, which were *Niches* or *Repoſitories*, wherein they placed *Cineraria*, *Urns*, or *Veſſels* of *Stone*, or *Earth*, containing the Aſhes of the Dead, and were here in Number Fifty-three.

*Fabretti*[a] indeed takes the *Cineraria* to have been Niches for receiving and keeping *Urnas lapideas*; but *Gutherius de Jure Manium* (Lib. II. c. 24.) tells us, that *Oſſuariæ ollæ à* Cinerarijs *in eo differunt, quod hæ Cineres, illæ oſſa exciperent.* Beſides, if they were Niches, or the ſame as *Ollaria*, the mentioning of them, as in this Inſcription, would be an unintelligible Tautology; and *Spon* (in his *Miſcell. Antiq. Erudit.* p. 290.) gives us the following Inſcription, which ſeems to put the Matter out of Diſpute.

*Romæ, in Operculo Vaſis.*

CINERARIVM
GEMELL. III. AELI
MARCI. ET PHILIPPI.

[a] Inſcript. ant. in ædibus pat. p. 16, 17.

From

From both which Authorities it is evident, that the *Cineraria* were *Vaſa*, and not Repoſitories for them.

This Monument was ſituated on the left Side of the *Via Salaria*, which ran to the North-weſt of *Rome* from the *Porta Collina*. It ſtood in the Ground of *Voluſius Baſilides*, and the Conſideration for the Conveyance of it is one *Seſterce*. It is very uſual in ſepulchral Inſcriptions to find the Monument of one Family in the Field of another, the Proprietor of the Monument reſerving the Right of that to himſelf when he ſold the Ground; or purchaſing ſo much Ground from the Owner as was ſufficient for erecting the Monument. All Sepulchres, when once a Body was interred therein, were eſteemed as Religious and Sacred, and were not to follow the Poſſeſſion of the Field.

*Mille pedes in fronte, trecentos cippus in agrum*
*Hic dabat, Hæredes monumentum ne ſequeretur.*
Hor. 1. Sat. 8.

Line 11. *Baſilides* is a Blunder for *Baſilidis* in the Genitive Caſe; and we ſhall meet with more of them before we get through this Inſcription.

Line 11, 12. The Words *Donationis cauſa mancipio accepit M. Herennius Agricola de Tito Flavio Artimedoro* IIS N. I. are to be read *Seſtertio Nummo Uno*, as is evidently demonſtrated from the following Inſcription, where you have alſo the reſt of the Words of this Form of Conveyance. There is likewiſe in *Gruter* [a] an Inſcription, where-

[a] P. DCCCCLVI. 4.

in the Words SESTERTIO NUMMO UNO are expreſs'd at length.

HOC. MONVMENTVM. SIVE
SEPVLCHRVM. CVM. AREA. SVA
T. FVFICIVS. FELIX. DE
IVLIA. RVFINA. DONATIONIS
CAVSA. MANCIPIO. ACCEPIT
$\overline{\text{II}}$ S. N. VNO. QVOD. COMPARAVIT
FVFICIAE. AMPLIATAE
CONIVGI CARISSIMAE, &c.

They were *Verba ſolennia Donationis vel Alienationis cauſâ quæ fiebat per Mancipium.* This *Mancipation* was often a fictitious Sale of a thing to make the Donation of it valid, as in this Caſe: And the Mention of one Seſterce given for it, is only *Dicis gratiâ*, much like our Form in Leaſes for putting into Poſſeſſion, *In conſideration of five Shillings in Hand paid.* Frequent Examples occur of this Practice, as in the Inſcription juſt now quoted from *Fabretti*[a], and others in the ſame Author; and in *Gruter* (p. DCCCCLVI. 4. and MLXXXI. 1.) which latter is a compleat *Formula* of a like ſepulchral Conveyance as this, but of a later Time, and not ſo well preſerved; it being executed when the Emperor *Trebonianus Gallus*, and his Son *Voluſianus*, were Conſuls, A. D. 252; and ours probably, as will be ſhewn hereafter, during the Reign of *Septimius Severus*.

[a] Inſcript. ant. in æd. pat. p. 50.

Line

Line 15.) LIBRJ PENDE is cut in our Marble as two diſtinct Words, as here repreſented, though in reality it ſhould be but one, and ſignifies the Perſon that weighed or counted over the Money to the Seller: It ſhould be read LIBRIPENDE, than whom there could not be a more proper Witneſs to the Purchaſe. At the beginning of the *Roman* State their Money was uncoined, and called *Æs rude*, or *grave*, therefore paid by *Weight*; whence comes the Word *Libripens*. Under *Servius Tullius* their ſixth King, it begun to be coined, and paid by *Tale*; but the Perſon who counted it over to the Receiver, ſtill retained his primitive Appellation. Almoſt every conſiderable Town had its *Libripendes*, Perſons of Skill in Money-Affairs, to determine Controverſies about the Value of it.

An Inſcription in *Gruter* (p. MCXV. 1.) is a ſtrong Evidence of this: It was found at *Nola* in *Campania*, and ſhows they had two *Lib ipendes* there appointed by publick Authority.

T. VEDIVS. T. F.
T. VITORIVS. CN. F
II. VIRI
LIBRIPENDES
EX. DD.

This Name they had, *Quia libram æneam tenebant quâ nummos penderent*;

——*Libra mercatus & Ære.* Hor. Epiſt. II. 2.

And

And hence we have the Words *Stipendium*, *Diſpendium*, *Expenſæ*, and the like. In *Apuleius*'s *Metamorph.* Book Xth, is the following Paſſage: ——*Sed ne fortè aliquis, inquam, iſtorum quos offers Aureorum, Nequam vel Adulter reperiatur, in hoc ipſo ſacculo conditos eos annulo tuo prænota, donec altero die* Nummulario *præſente comprobentur*, where this *Nummularius* ſeems to be the ſame as the *Libripens*, who was generally called in to count over and examine the Money at Payments for Purchaſes, though ſometimes a private Perſon or Friend to the Parties might probably perform this Office for them, and be an Evidence, upon Occaſion, to the Facts: To which end alſo they uſed to adhibit another Witneſs, as *Herennius Agricola* does here, who was one *Tiberius Julius Erotes*, and ſometimes they added five more. The Form and Manner of doing it, was by asking a By-ſtander, *Licetne anteſtari*? If he conſented, the Demandant touched, or pulled, the lower Part of his Ear, as a Memorandum of what paſſed; whence *Horace* in his IXth Satire,

—— — *caſu venit obvius illi*
*Adverſarius, & quo tu turpiſſime? magnâ*
*Exclamat voce,* & Licet Anteſtari? *ego verò*
Oppono Auriculam———

By the Law of the XII Tables, if he that was called to teſtify in this manner, or the *Libripens* refuſed afterwards to give his Evidence in the Caſe, they were adjudged infamous. *A. Gel.* l. xv. c. 14.

Line 18.) EARVM OLLARVM ſeems to be a Miſtake for EORVM OLLARIORVM.

Line

Line 20 to 27.) are Covenants uſual upon this Occaſion, as may be ſeen in the like ſepulchral Contracts, particularly the before-mentioned in *Gruter* (p. MLXXXI. 1.) and many other Donations and Orders about Monuments in his voluminous Collection; as alſo in *Fabretti*, and *Reineſius*.

Line 28.) SE ſeems to have been a Blunder of the *Marmorarius* for SIBI, SE DARI being perfectly ungrammatical. But in the Contract aforeſaid, given us by *Gruter*, the Words run, *De ea re dolum malum abeſſe, afuturumque a te, Hærede tuo, & ab his omnibus ad quos ea res pertinebit, hæc* SIC *rectè dari, fieri, præſtarique ſtipulatus eſt*; which inclines me rather to believe, that SE in ours ought likewiſe to have been SIC. There are many palpable Miſtakes in it, as I have before obſerved, as in Line the 23d VELLIT for VELIT, and CLAVISVE for CLAV.SQVE, in the 24th.

The *Roman* Lawyers tell us, that *Stipulatio erat Interrogatio certis, ſolennibuſque verbis concepta*; *& apta, conſentaneaque reſponſio, veluti* ſpondes? ſpondeo. Dabis? Do. This is fully confirmed both in ours, and the *Gruterian* Contract, (p. MLXXXI. 1.) *Stipulatus eſt Marcus Herennius Agricola: Spepondit T. Flavius Artemidorus:* In the latter *Stipulatus eſt Licinius Timotheus: Spepondit Statia Irene.* The learned Mr. *Mattaire* obſerves from *Aulus Gellius* (Lib. vii. c. 9.) that ancient Authors uſed *e* inſtead of *o*, in thoſe Verbs which have a Reduplication [*in præterito tempore*] as *memordi, pepoſci, ſpepondi*, for *momordi, popoſci, ſpopondi*, uſed by more modern Writers; ſo that SPEPONDIT is no Miſtake, but an Archaiſmus, as may be the Word IEN-

IENTIBVS in the 12th Line; though it has not had the good Fortune to have been remarked, as the latter. *Iens* in the Nominative Caſe was uſed more than once by *Cicero*; and though he declines it, like all other Authors now in being, *Euntis*, *Eunti*, &c. yet it might originally have been declined *Ientis*, *Ienti*; but as there is now no Authority extant to warrant it, this muſt paſs as meer Conjecture.

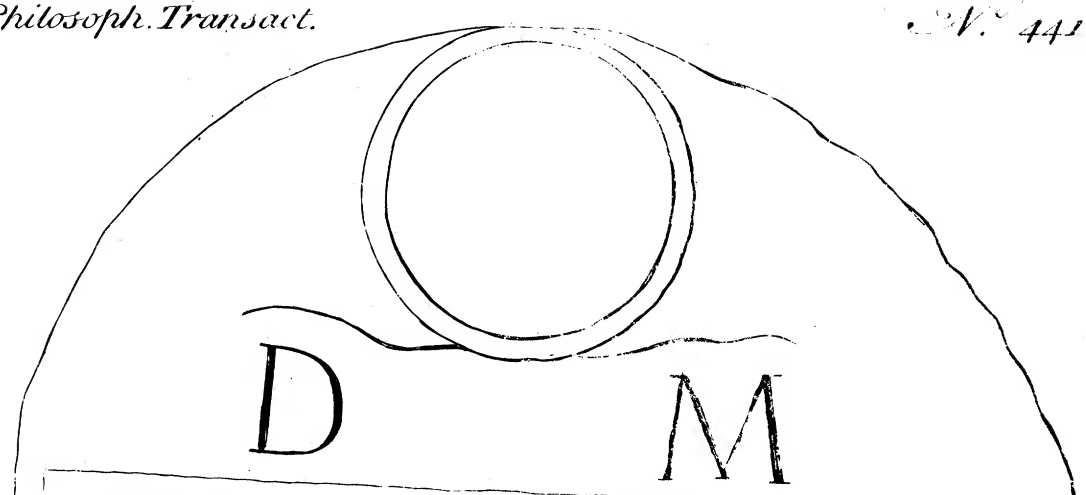
Line 32.) There are no ſuch Names to be found in any of the *Faſti Conſulares* as *C. Calpurnius Flaccus* and *Lucius Trebius Germanus*; ſo they muſt have been not the *Conſules Ordinarij* of the Year, but *Suffecti*. It is very ſtrange that the *Romans* ſhould ſo long adhere to this troubleſome and uncertain Method of Computation by Years of their Conſuls, ſince they had frequently ſeveral Pairs of them in the ſame Year, eſpecially after they fell under the Imperial Government. Some reckoned by the ordinary Conſuls, who came into their Office upon the firſt of *January*, about 600 Years after the building of *Rome*; for 'till that Time the Month of their entring upon that Dignity was not fix'd; and others computed by the *Suffecti*, who might come in ſeveral Months after, as Vacancies happened, or as they were appointed by the Emperor, tho' their Names were ſeldom inſerted in the *Faſti*. Beſides this, it was impoſſible for any Man to remember how many Years were elapſed from the preſent Time upwards, to ſuch and ſuch Conſuls, without Tables of their Succeſſion, or having Recourſe to ſome other Æra, as the A. V. C. *anno Urbis conditæ*, which they do not ſeem to have much regarded.

In

In *Gruter* (p. XLVI. 9.) is a long Inſcription, mentioning TREBIVS GERMANVS, (though not as Conſul,) in the Reign of *Septimius Severus*; and another (p. CCCLXXXII. 7.) of C. CALPVRNIVS FLACCVS: If theſe Men were the Conſuls here referred to, as they might be, the Age of our Marble will be aſcertained within a few Years.

The Stone is turned with an Arch at Top; the whole Length of it is 27 Inches and a half; the Breadth at the Bottom of it is ten Inches and a half, and at the Baſe of the Arch twelve Inches and a quarter, it widening gradually upwards. The Letters are cut in a ſmall indifferent Character; that of the E and the F are remarkable, being always formed in this manner E. *f.* * It was probably placed over or between the four *Niches*, or OLLARIA granted to *M. Herennius Agricola* in this Monument by *T. Flavius Artemidorus*, in order to declare and aſſert the Right and Poſſeſſion of them to the former, and his Family, 'till they were all filled.

* *As will appear by examining the engraved Copy of it in the Plate prefixed to this Tranſaction, which is taken very exactly to all the Dimenſions by a Seal of half the original Size.*

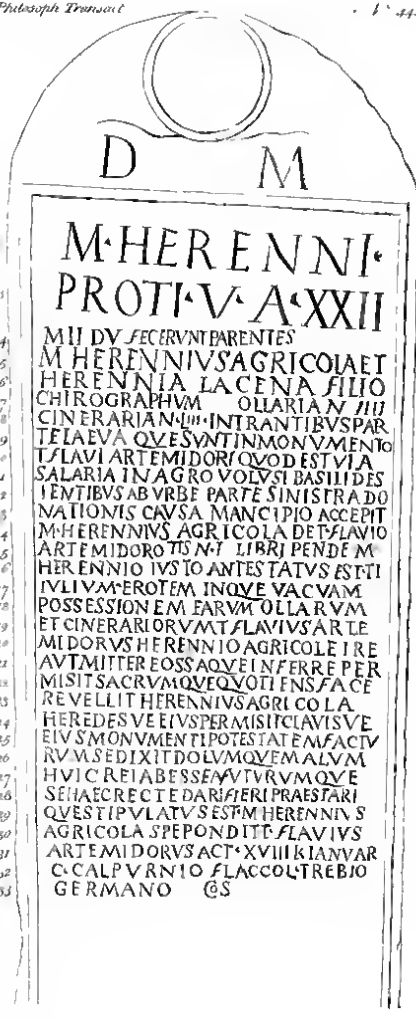


D M

M·HERENNI·
PROTI·V·A·XXII

MII DV FECERVNT PARENTES
M HERENNIVS AGRICOLAET
HERENNIA LACENA FILIO
CHIROGRAPHVM OLLARIA N IIII
CINERARIAN·LIM·INTRANTIBVSPAR
TE LAEVA QVE SVNT IN MONVMENTO
TFLAVI ARTEMIDORI QVOD EST VIA
SALARIA IN AGRO VOLVSI BASILIDES
IENTIBVS AB VRBE PARTE SINISTRA DO
NATIONIS CAVSA MANCIPIO ACCEPIT
M·HERENNIVS AGRICOLA DET·FLAVIO
ARTEMIDORO TTS N·I LIBRI PENDE·M·
HERENNIO IVSTO ANTESTATVS EST·TI
IVLIVM·EROTEM INQVE VACVAM
POSSESSIONEM EARVM OLLARVM
ET CINERARIORVM TFLAVIVS ARTE
MIDORVS HERENNIO AGRICOLE IRE
AVT MITTERE OSSA QVE INFERRE PER
MISIT SACRVMQVE QVOTIENS FACE
RE VELLIT HERENNIVS AGRI COLA
HEREDES VE EIVS PERMISIT CLAVIS VE

23 REVELLIT HERENNIVS AGRICOLA
24 HEREDES VE EIVS PERMISIT CLAVIS VE
25 EIVS MONVMENTI POTESTATEM FACIV
26 RVM SEDIXIT DOLVMQVE MALVM
27 HVIC REI ABESSE FVTVRVMQVE
28 SE HAEC RECTE DARI FIERI PRAESTARI
29 QVESTI PVLATVS EST M HERENNIVS
30 AGRICOLA SPEPONDIT T FLAVIVS
31 ARTEMIDORVS ACT XVIII K IANVAR
32 C CALPVRNIO FLACCO L TREBIO
33 GERMANO COS


D M
M·HERENNI·
PROTI·V·A·XXII
MII DV FECERVNT PARENTES
M HERENNIVS AGRICOLAET
HERENNIA LACENA FILIO
CHIROGRAPHVM OLLARIA N III
CINERARIAN·LIII·INTRANTIBVSPAR
TE LAEVA QVE SVNT IN MONVMENTO
T FLAVI ARTEMIDORI QVOD EST VIA
SALARIA IN AGRO VOLVSI BASILIDES
IENTIBVS AB VRBE PARTE SINISTRA DO
NATIONIS CAVSA MANCIPIO ACCEPIT
M·HERENNIVS AGRICOLA DET·FLAVIO
ARTEMIDORO TIS N·T LIBRI PENDE M
HERENNIO IVSTO ANTESTATVS EST TI
IVLIVM·EROTEM INQVE VACVAM
POSSESSIONEM EARVM OLLARVM
ET CINERARIORVM T FLAVIVS ARTE
MIDORVS HERENNIO AGRICOLE IRE
AVT MITTER EOS SI AQVE INFERRE PER
MISIT SACRVMQVE QVOTIENS FACE
RE VELLIT HERENNIVS AGRICOLA
HEREDES VE EIVS PERMISIT CLAVIS VE
EIVS MONVMENTI POTESTATEM FACTV
RVM SEDIXIT DOLVMQVE MALVM
HVIC REI ABESSE FVTVRVMQVE
SEI HAECRECTE DARI FIERI PRAESTARI
QVESTIPVLATVS EST M HERENNIVS
AGRICOLA SPEPONDIT T FLAVIVS
ARTEMIDORVS ACT XVIII KIANVAR
C CALPVRNIO FLACCO LTREBIO
GERMANO COS